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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,233	04/29/2005	Mario Gioni Chiocchetti	6524/PCT	7053
6858	7590	12/16/2005	EXAMINER	
BREINER & BREINER, L.L.C. P.O. BOX 19290 ALEXANDRIA, VA 22320-0290			NGUYEN, GEORGE BINH MINH	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SJP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,233	CHIOCCHETTI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	George Nguyen	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 October 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 September 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>042905</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

Receipt is acknowledged of the IDS filed on 29 April, 2005 which has been considered and placed of record in the file.

Receipt is acknowledged of Applicant's preliminary amendment filed on October 14, 2005

Claims 1-27 are presented for examination.

This application has been filed with formal drawings which are acceptable to the examiner.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

Claims 21-27 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claim 21, lines 10-11, it is improper to claim "wherein said sharpening unit is made according to claim 1" because the word "made" suggest a method of making said sharpening unit.

Furthermore, it is unclear how the cutting machine further defines the sharpening unit.

Please note that a restriction may be required if claims 21-27 are rewritten in independent form.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6, 8-9, and 21, 23, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by EPA'585927.

With reference to Figure 2a, EPA'927 discloses the claimed invention.

Please note that the claim is directed to apparatus which must be distinguished from the prior art in term of structure rather than functions [MPEP 2114]. Hence, the functional limitations of “wherein said grinding wheel unit ... on which said grinding wheel acts” which are narrative in form have not been given any

patentable weight. In order to be given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPA'585927 in view of EPA'528,122. EPA'927 has been discussed above, but does not disclose a partly restricted movement according to a second degree of freedom to center said grinding wheels as set forth in the claim.

With reference to Figure 5, EPA'122 discloses an adjustment arm 31 being pivoted about axis 27 to bring grinding wheels in contact with blade 21. Please note that the claim is directed to apparatus which must be

distinguished from the prior art in term of structure rather than functions [MPEP 2114]. Hence, the functional limitations of “a partly restricted movement ... to said lying plane” which are narrative in form have not been given any patentable weight. In order to be given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over EPA'927 in view of EPA'122 as applied to claim 1 above, and further in view of Biagiotti'5,038,647. EPA'927 as modified by EPA'122 has been discussed above, but does not disclose two sharpening units as set forth in claims. With reference to Figures 9-14, Biagiotti discloses two sharpening units including motorized grinding wheels 83/85 in Figure 9 and idles grinding wheels 106 in Figure 14. The advantage is to provide additional sharpening unit at a desired position in a case of a band saw (col. 8, lines 20-24).

EPA'927 as modified by EPA'122 discloses the claimed invention except for the additional sharpening units set forth in the claims. Biagiotti

teaches that it is known to two sharpening units including motorized grinding wheels 83/85 in Figure 9 and idle grinding wheels 106 in Figure 14. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have additional grinding wheels as taught by Biagiotti, since Biagiotti states at column 8, lines 20-24, that such a modification would provide additional sharpening unit at a desired location in a case of a band saw.

***Allowable Subject Matter***

Claims 4-20 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blom'917 and Blume et al.'468 all disclose sharpening units for rotary cutting blade for log.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Nguyen whose telephone number is 571-272-4491. The examiner can normally be reached on Monday-Friday/630AM-300PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GEORGE NGUYEN  
PRIMARY EXAMINER**



George Nguyen  
Primary Examiner  
Art Unit 3723

GN – December 12, 2005